

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:97-CR-94-6H

MICHAEL SCOTT MCRAE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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**ORDER**

This matter is before the court on another round of motions and letters that petitioner has filed with this court seeking various types of relief from his judgment. A review of these motions reveals that all the motions seek to have petitioner's sentence reduced and/or vacated for various reasons, including drug quantity issues, alleged jurisdictional errors and ineffective assistance of counsel.

The court has reviewed these motions and letters and once again finds that these matters have already been considered and rejected or could have been raised on direct appeal and cannot now be asserted in collateral proceedings. Stone v. Powell, 428 U.S. 465, 477 (1976).

To the extent any of the claims could be construed as raising issues that are not procedurally defaulted, such claims need to be raised, if at all, in a motion to vacate pursuant to 28 U.S.C. § 2255. Because petitioner has already filed a § 2255 motion, he is barred from bringing another § 2255 motion in this court absent certification by a panel of the Fourth Circuit Court of Appeals in accordance with 28 U.S.C. § 2255(h). Furthermore, defendant's sentence was reduced under the First Step act by order filed October 31, 2019 [DE #667] and he was released from the Bureau of Prisons on November 8, 2019.

For the foregoing reasons, petitioner's motions [DE #602, #617, #618, #641, #645, #649, #651, #654] are denied or deemed moot by the ruling at DE #667.

This 14<sup>th</sup> day of December 2020.



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Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
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